IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.429 OF 1992.

The State of Maharashtra : Appellants.

versus

Shri Subhash Anant Shetye : Respondent.

Mr.B.R.Patil, Acting Government Pleader for the State.

Miss A.S.Prabhu i/by Mr.A.V.Bandiwadekar for the respondent.

CORAM : D.G.DESHPANDE,J.

DATED : 19th APRIL 2005.

ORAL ORDER

1. Heard the learned AGP for the State and the advocate for the respondent. The State has filed this appeal challenging the judgment of the

Reference Court dated 12th November 1991 by which the Reference Court awarded Rs.10,000/- for fruit bearing trees and Rs.20,000/- for reconstruction of building.

2. Regarding the compensation for fruit bearing trees, the claimant's oral evidence remained unchallenged and, so far as the compensation for reconstruction of building is concerned, the claimant claimed Rs.35,000/-. But it was reduced to Rs.20,000/-. Therefore, the enhancement awarded at Rs.30,000/- is not unwarranted. The learned AGP contended that the rate of interest awarded by the reference Court at 12% p.a. is on higher scale and it should be reduced. He relied upon the judgment of Supreme Court reported in **2001 ACJ 428 [Kaushnuma Begum and others v. New India Assurance Co. Ltd. and others]** wherein it has been held by the Supreme Court that with a change in economy the banks have lowered the rates of interest on fixed deposits. In that case also earlier 12% interest was awarded by the tribunal but the Supreme Court reduced it to 9%. It is true that this judgment of the Supreme Court is under the Motor Vehicles Act 1939 but so far as interest aspect is

concerned, the aforesaid observations of the Supreme Court with reference to the change in economy and the policy of Reserve Bank of India and the present structure can be properly placed into service as rightly argued by the AGP. In view of this judgment of the Supreme Court, the rate of interest has to be reduced and it should be 9% p.a. Hence the order:_-

:ORDER:

The appeal is partly allowed.

Interest awarded by the Reference Court at the rate of 12% p.a. is reduced to 9% p.a.

No order as to costs.

[D.G.DESHPANDE]

19/04/2005 JUDGE.